BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Benjamin & Odessie Joiner Ward 031, Block 115, Parcel 00027 Residential Property Tax Year 2007	)) Shelby County))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$12,600	$69,900	$82,500	$20,625

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 9, 2008 in Memphis, Tennessee. The taxpayers were represented by B. R. Hester, Esq. The assessor of property was represented by John Zelinka, Esq.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 1968 Southern Avenue in Memphis, Tennessee.

The taxpayers contended that subject property should be valued at a maximum of $50,000. In support of this position, the taxpayers essentially asserted that subject property experiences a significant dimunition in value for two reasons. First, numerous homes in the immediate area, including those on either side of the subject, are for sale and/or boarded up. Second, subject property is located directly across from a railroad crossing and less than one minute from a neighborhood known for its high crime/homicide rate.

The assessor contended that subject property should be valued at $75,000. In support of this position, the testimony and written analysis of staff appraiser Ron Palmer was offered into evidence. Basically, Mr. Palmer analyzed four comparable sales he maintained support a value indication of $75,000 after adjustments. Mr. Palmer stressed that subject property is located in the Cooper-Young District, an area where many homes purchased are renovated or remodeled then resold.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $75,000 in accordance with Mr. Palmer's analysis.

Since the taxpayers are appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayers. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that the taxpayers introduced insufficient evidence to support their contention of value. Most importantly, not a single comparable sale was introduced into evidence.[1] Moreover, the taxpayers did not know the asking prices of any of the homes Mr. Joiner testified were presently for sale.[2] Third, although subject property unquestionably experiences a loss in value for the reasons asserted by the taxpayers, the dimunition in value cannot be quantified absent additional evidence.

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

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[1] The taxpayers original filing vigorously argued that the sale of the home at 1978 Southern should not be considered. The assessor of property agreed and did not rely on that sale at the hearing.

[2] Ironically, Mr. Palmer testified that the home located at 1932 Southern Avenue was listed for sale at $87,800.

Final Decision and Order at 2.

The administrative judge finds that Mr. Palmer substantiated his opinion of value by analyzing four comparable sales. The administrative judge finds that relevant adjustments were made. Absent additional evidence from the taxpayers, the administrative judge must presume that Mr. Palmer adequately accounted for the various factors causing a dimunition in value.

The administrative judge would also note that one of the comparables relied on by Mr. Palmer borders the rear of subject property and sold for $93,000 on July 28, 2006. Mr. Palmer concluded that sale supported a value of $75,700 for the subject after adjustments.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$12,600	$62,400	$75,000	$18,750

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 29th day of January, 2008.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: B. R. Hester, Esq.
Tameaka Stanton-Riley, Appeals Manager